

REMARKS

The Office Action mailed December 29, 2008, and the prior art relied upon therein, including the newly cited secondary reference, have been carefully reviewed. The claims in the application are claims 53-62, and these claims define not only novel subject matter but also non-obvious subject matter under Section 103, and therefore should be allowed. Favorable reconsideration and allowance are earnestly solicited.

Claim 56 has been rejected under the second paragraph of Section 112. Applicant appreciates the examiner pointing out the typographical error in claim 56, which has now been corrected above.

Withdrawal of the rejection is in order and is respectfully requested.

The recitation added to the independent claims finds support in applicant's specification in the paragraph spanning pages 10 and 11. As pointed out below, the Funahashi cells must be interconnected when under elastic deformation, clearly contrary to the present invention.

New claims 59-61 find support at the bottom of page 6 and the top of 7, and also at page 12. New claim 62 finds

support at page 11, lines 16 and 17. These new dependent claims are patentable **at least** because they depend from claim 53 and thus incorporate the features of claim 53.

Claims 53-58 have been rejected as obvious under Section 103 from van Walraven '900 in view of newly cited and applied Funahashi USP 3,342,911 (Funahashi). This rejection is respectfully traversed.

It will of course be understood that the present invention may be understood to be an improvement over the vibration-insulating pipe clamp assembly of van Walraven '900, and improvements of the present invention over van Walraven '900 have been pointed out in earlier prosecution of the present application. Applicant does not denigrate van Walraven '900, but again the present invention constitutes an improvement, and the PTO recognizes one important improvement of the present invention, the Office Action stating on page 3 that van Walraven '900 "... does not teach that the cavities are substantially unpressurized by dehydration of a salt or a chemical which remains in the cavities or that the form factor of the isolating member is less than 0.2." The importance of this distinction is made clear in applicant's specification, such as at pages 4 and 5.

Recognizing the improvement of the present invention over van Walraven '900, the rejection relies on Funahashi as a secondary reference, stating that it would have been obvious for the person of ordinary skill in the art at the time the present invention was made to have substituted the "composite porous vulcanized rubber material" of Funahashi for the foam layer disclosed in van Walraven '900, thus reaching the present invention. Applicant respectfully disagrees.

The PTO has interpreted Funahashi as disclosing a composite porous vulcanized rubber material **with closed cavities** (discrete bubbles) and separating walls between them where the cavities are substantially unpressurized by dehydration of salt which remains in the cavities as a step in the process of vulcanizing the rubber, relying on column 4, lines 8-14 of Funahashi.<sup>1</sup> After a close study of Funahashi, applicant must conclude that the assessment in the rejection is incorrect, as Funahashi seems to point in a different direction than the present invention".

Thus, Funahashi proposes a composite vulcanized rubber which comprises multiple layers, which can be used in stamps or as a filter material. The purpose of the porous rubber for use as an ink stamp is to absorb ink or, in the

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<sup>1</sup> Applicant has never alleged to be the inventor of this type of foamed elastomer, even if Funahashi does disclose such subject matter, respectfully denied, but applicant is the first to have used this particular type of foamed elastomer in the claimed environment.

event it is used as a filter, to allow a fluid to pass therethrough. The cavities in the porous rubber are thus in communication with each other. Otherwise no transportation of fluid could take place through the rubber and the Funahashi porous foam could not carry out its intended function of absorbing ink or acting as a filter. This is already contrary to what is claimed in the present application, which deals after all with a vulcanized rubber with closed cavities and separating walls therebetween.

Funahashi describes that foaming agents are present in the rubber which are activated at different temperatures. During vulcanization of the rubber, the foaming agents cause bubbles (cavities) to evolve in the rubber. The rubber furthermore contains a salt which, after the rubber is formed and vulcanized, is washed out of the rubber with water (see column 4, lines 15-41).<sup>2</sup> By this washing operation the salt is dissolved and pinholes are formed which form a communication between the cavities in the rubber. These pinholes are normally closed (in an unloaded state) and a fluid, like ink, cannot flow from one cavity to the other. However, under stress the pinholes will open and they will communicate with the adjacent cells such that fluid can flow from cell to cell through the pinholes (see column 4, lines 64-75).

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<sup>2</sup> The cells must be open to permit the water to enter the cells to wash out the salt.

Thus, the salt in Funahashi is not used to make the cavities unpressurized, but it serves to form pinholes in the rubber to interconnect the cavities (cells) formed in the rubber by foaming. In the final product the salt does not remain, but is washed away.

On page 3, last sentence of the Office Action, the rejection states that Funahashi discloses a rubber with closed cavities because Funahashi mentions discrete bubbles. As pointed out above, this cannot be correct because communication between and among the cells in Funahashi is critical to functions desired by Funahashi. From for example column 4, lines 42-75, it appears that the layer A of the foam rubber material is the most similar of the two Funahashi layers to the rubber that is described in the present application. This layer A has discrete fine cells which are formed by bubbles evolving from heating a foaming agent at high temperature. A critical difference between Funahashi compared with the subject matter of the present application is that the cells in Funahashi must be able to communicate with each other through pinholes formed by the salt. The term "discrete bubbles" mentioned in Funahaski cannot be considered as closed cavities.

If Funahashi teaches anything, it is that there must be communication between adjacent cells of the foam rubber,

and this is a teaching which is contrary to the present invention. Thus, Funahashi **teaches away from** the present invention.

It is not sufficient to consider that in an unstressed state in the rubber of Funahashi the pinholes are closed and thus the cavities are closed, because the foam elastomer according to the present invention is continuously under stress when the pipe clip is clamped around a pipe. Where the rubber of Funahashi is used for the intended purpose, the pinholes in that rubber will always be open.

Another difference between the present application and Funahashi is that Funahashi proposes a foamed rubber. In the present application, in particular paragraph [0005] of the publication (bottom paragraph on page 1 of the translation of the present application), it is mentioned that exactly foamed rubbers are not really suitable for pipe clips, in which heavy loads, in particular static loads, occur in practice.. According to the present application the foaming of the rubber results in a cell structure with much too thin walls whereby there is a too low resistance against static loads. That is exactly the reason why the present invention proposes to use a vulcanized rubber wherein during vulcanization water of a hydrated salt is split off and vaporized whereby cavities are

formed with thicker separating walls than would be obtained with foaming.

Applicant believes and respectfully submits that the person of ordinary skill in the art would have had no reason to substitute the Funahashi foam for the elastic foamed polyurethane of van Walraven '900, and therefore the proposed combination would not have been obvious. Moreover, even if the combination were obvious, contrary to applicant's position, the resultant reconstructed van Walraven '900 containing the foam of Funahashi would not correspond to the claimed subject matter as pointed out above. Either way, the claimed subject matter would not have been obvious to the person of ordinary skill in the art at the time the present invention was made.

Withdrawal of the rejection is in order and is respectfully requested.

Applicant believes that all issues raised in the Official Action have been addressed above in a manner that should lead to patentability of the present application.

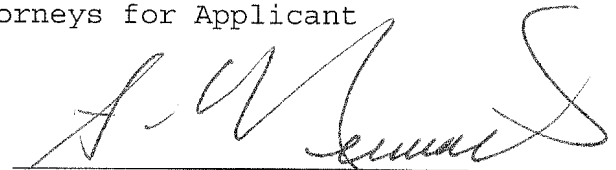
Appln. No. 10/523,926  
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Reply to Office Action dated December 29, 2008

Favorable reconsideration and allowance are respectfully  
requested.

Respectfully submitted,

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By

A handwritten signature in dark ink, appearing to read "S. Neimark", written over a horizontal line.

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